HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. V.SEETHAPATHY

WRIT APPEAL No. 1524 OF 2002

-

-

Between:

The Government of India,
Rep. by its Secretary, Ministry
of Home Affairs, (Freedom
Fighters Division), Lok Nayak
Bhavan, New Delhi and another

……Appellants

And

Vangaveeti Janardhana Rao (dead),
through his wife Smt. Vangaveeti Kalavathi.

……Respondent

:: JUDGMENT ::

Counsel for the Appellant : Sri A.Rajasekhar Reddy,
Assistant Solicitor General

Counsel for the Respondents : None

Dated: 04-08-2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 14-12-2001 passed by the learned Single Judge, whereby he allowed Writ Petition No.16139 of 1997 filed by the respondent in terms of the judgment of the Supreme Court in **Gurdial Singh vs. Union of India and others**[1].

We have heard Sri A.Rajasekhar Reddy, Assistant Solicitor General appearing for the appellants and perused the record.

Although from the order under challenge it is not discernable as to what substantive relief has been granted by the learned Single Judge to Smt. Vangaveeti Kalavathi, widow of late Sri Vangaveeti Janardhana Rao, on a reading thereof in conjunction with the prayer made in the writ petition, it is possible to make out that the learned Single Judge nullified communication dated 29-05-1997 issued by the Government of India, Ministry of Home Affairs, whereby the claim made by the respondent's husband for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for shot 'the 1980 Scheme') was rejected.

A perusal of the record shows that late Sri Vangaveeti Janardhana Rao claimed pension by asserting that he had participated in the freedom movement before independence and after independence. In the representation made by him, late Sri Vangaveeti Janardhana Rao asserted that a criminal case was registered against him on 17-3-1947 on account of his participation in the movement against Nizam government. The State Government is said to have forwarded his application to the Government of India, but the latter rejected the same on the ground that his involvement in the criminal case registered on 17.3.1947 cannot entitle him to be treated as a freedom fighter in relation to Hyderabad liberation movement because the said movement had started after independence. The decision of the Government of India was communicated to late Sri Vangaveeti Janardhana Rao vide letter dated 29-5-1997. He challenged the same in Writ Petition No.16139 of 1997, which was

disposed of by the learned Single Judge along with some other petitions vide his order dated 14-12-2001 by recording a short order, which reads as under:

> "Following the judgment of the Supreme Court in **Gurdial Singh vs. Union of India and others** (2001 AIRSCW 3843), wherein the Apex Court in paragraphs 6, 7, 8 and 9 of the judgment, granted pension to the freedom fighters holding that rejection of pension to the freedom fighters on hyper-technical grounds is not proper. Accordingly, the writ petitions are allowed. No costs."

Sri A.Rajasekhar Reddy argued that late Sri Vangaveeti Janardhana Rao who is said to have been arrested on 17-03-1947 i.e. almost five months before the country became independent cannot be treated as a freedom fighter within the meaning of the 1980 Scheme and, therefore, the learned Single Judge committed a serious error by allowing the writ petition simply by making reference to the judgment of the Supreme Court in **Gurdial Singh vs. Union of India and others** (supra). Sri Reddy submitted that a person could be treated to have taken part in Hyderabad freedom struggle for the purpose of grant of pension under the 1980 Scheme only if he/she had been arrested and suffered imprisonment or had gone underground after 15th August, 1947 and not before that date, because Hyderabad freedom struggle had started after 15th August, 1947.

We have given serious thought to the arguments of the learned counsel. The reasons recorded by the Government of India for not entertaining the claim made by late Sri Vangaveeti Janardhana Rao are contained in letter dated 29-5-1997, the relevant portion of which is extracted below:

> "In pursuance of the orders of the Hon'ble High Court of A.P., Hyderabad dated 4-11-1996 in the above referred writ petition filed by you, I am directed to state that your case has been carefully considered in the light of the aforesaid court order. The court document in Case No.209/1/1356 Fasli, furnished by you in support of your claimed sufferings, reveals

that the case against you was instituted on 11-6-1356 F. corresponding to 17-3-1947 during which there was no merger movement taken place. Merger movement of erstwhile Hyderabad State into Indian Union started after independence only. You have claimed vide your application that on knowing issue of arrest warrant you went underground and worked at various border camps whereas the court orders does not mention any arrest warrant having been issued against you. As your claim is not substantiated by the evidences produced by you, you are not entitled for the pension under the scheme. In view of the reasons stated above, it has not been found possible to accept your claim for grant of pension."

In paragraph 3 of the affidavit filed by late Sri Vangaveeti Janardhana Rao, a bald assertion was made that he had actively participated in the freedom movement before independence and after independence. However, no material was placed on the record of the writ petition to show that the deponent had, as a matter of fact, participated in the freedom struggle prior to 15th August, 1947. Rather, entire tenor of his affidavit was that he had taken part in Hyderabad freedom movement. Undisputedly, that movement started after 15th August, 1947. Therefore, registration of criminal case against late Sri Vangaveeti Janardhana Rao cannot lend credibility to the assertion that he had taken part in the freedom movement.

As a corollary to what has been observed above, it must be held that the decision of the Supreme Court in **Gurdial Singh's** case (supra) has no bearing on the claim of late Sri Vangaveeti Janardhana Rao and the learned Single Judge gravely erred by granting relief to the respondent by relying on that judgment.

For the reasons stated above, the appeal is allowed. The order of the learned Single Judge is set aside. Consequently, Writ Petition No.16139 of 1997 shall stand dismissed.

G.S.SINGHVI, CJ

G.V. SEETHAPATHY,J

04-08-2006
ks

---

[1] 2001 AIR SCW 3843